

**DEPARTMENT OF EDUCATION****34 CFR Parts 668, 674, 682, and 685****Federal Student Aid Programs (Student Assistance General Provisions, Federal Perkins Loan Program, Federal Family Education Loan Program, and the Federal Direct Loan Program)****AGENCY:** Office of Postsecondary Education, Department of Education.**ACTION:** Updated waivers and modifications of statutory and regulatory requirements.

SUMMARY: The Secretary is issuing updates of longstanding waivers and modifications of statutory and regulatory requirements governing the Federal student financial aid programs under the authority of the Higher Education Relief Opportunities for Students Act of 2003 (HEROES Act). The HEROES Act requires the Secretary to publish a document in the *Federal Register* providing notice of the waivers or modifications of statutory or regulatory requirements applicable to the student financial assistance programs under title IV of the Higher Education Act of 1965, as amended (HEA), to assist individuals who are performing qualifying military service, and individuals who are affected by a disaster, war or other military operation, or national emergency, as described in the **SUPPLEMENTARY INFORMATION** section of this document.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The waivers and modifications in this document

expire on [INSERT DATE FIVE YEARS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: For provisions related to the Federal Perkins Loan Program, Federal Family Education Loan (FFEL) Program, and Federal Direct Loan (Direct Loan) Program: Brian Smith, Telephone: (202) 987-1327. Email: Brian.Smith@ed.gov. For other provisions: Aaron Washington, Telephone: (202) 453-7241. Email: Aaron.Washington@ed.gov. The mailing address for both individuals is U.S. Department of Education, Office of Postsecondary Education, 400 Maryland Ave. SW., 2nd Floor, Washington, DC 20202.

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7-1-1.

SUPPLEMENTARY INFORMATION:

The Secretary is issuing updated waivers and modifications of statutory and regulatory requirements governing the Federal student financial aid programs under the authority of the HEROES Act. As described below, these waivers and modifications primarily focus on servicemembers who are called for active duty. We note below where there is overlap between the waivers and modifications issued in this document and the waivers and modifications related to the Fresh Start Initiative, which is described below.

In a document published in the *Federal Register* on December 12, 2003 (68 FR 69312), the Secretary first exercised the

authority under the HEROES Act (Pub. L. 108-76, 20 U.S.C. 1098bb(b)) and announced waivers and modifications of statutory and regulatory provisions designed to assist "affected individuals." Under 20 U.S.C. 1098ee(2), the term "affected individual" means an individual who--

- Is serving on active duty during a war or other military operation or national emergency;
- Is performing qualifying National Guard duty during a war or other military operation or national emergency;
- Resides or is employed in an area that is declared a disaster area by any Federal, State, or local official in connection with a national emergency; or
- Suffered direct economic hardship as a direct result of a war or other military operation or national emergency, as determined by the Secretary.

Please note that these waivers and modifications do not apply to an individual who resides or is employed in an area declared a disaster area by any Federal, State, or local official unless that declaration has been made in connection with a national emergency.

In a document published in the *Federal Register* on September 29, 2017 (82 FR 45465), the Secretary updated the waivers and modifications to reflect statutory and regulatory changes that had occurred since the most recent prior waiver and modification document was published. The 2017 waivers and modifications expired on September 30, 2022.

The Secretary is updating the waivers and modifications to reflect statutory and regulatory changes that have occurred since publication of the 2017 waivers and modifications. The waivers and modifications in this document will expire on [INSERT DATE FIVE YEARS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. With a few exceptions, the waivers and modifications in this document are the same as the 2017 waivers and modifications. However, the 2017 waivers and modifications have been updated as follows:

(1) The Secretary is not including in this document the 2017 waiver that allowed institutions to use the applicant's original Expected Family Contribution (EFC) (the EFC based on the income and tax information reported on the Free Application for Federal Student Aid (FAFSA®)), the EFC based on the data from the first calendar year of the award year, or the EFC based on another annual income that more accurately reflects the family's current financial circumstances.

A financial aid administrator has the authority to use professional judgment on a case-by-case basis for affected individuals. The Department believes that the authority provided through the 2017 waiver is already within the authority of the financial aid administrator. The Department has also issued Dear Colleague Letters GEN-21-02 and GEN-22-15 further explaining the authority and responsibilities of the financial aid administrator in regard to professional judgment.

(2) The Secretary is not including the 2017 waiver and modification that allowed institutions to exercise professional judgment to make adjustments to the cost of attendance or the items used in calculating the EFC on a broader basis than the case-by-case basis reflected in the HEA. Accordingly, an institution that exercises professional judgment must make those determinations on a case-by-case basis for affected individuals.

(3) The Secretary is not including the 2017 waivers and modifications related to verification. The Secretary will announce any changes related to verification in a separate *Federal Register* notice, Dear Colleague letter, or electronic announcement.

The Secretary is issuing these waivers and modifications under the authority of the HEROES Act, 20 U.S.C. 1098bb(a). In accordance with the HEROES Act, the Secretary is providing the waivers and modifications of statutory and regulatory requirements applicable to the student financial assistance programs under title IV of the HEA that the Secretary believes are appropriate to ensure that--

- Affected individuals who are recipients of student financial assistance under title IV are not placed in a worse position financially in relation to that financial assistance because they are affected individuals;

- Affected individuals who are recipients of student financial assistance are not unduly subject to administrative burden or inadvertent technical violations or defaults;

- Affected individuals are not penalized when a determination of need for student financial assistance is calculated;

- Affected individuals are not required to return or repay an overpayment of grant funds based on the HEA's Return of Title IV Funds provision; and

- Entities that participate in the student financial assistance programs under title IV of the HEA and that are located in areas that are declared disaster areas by any Federal, State, or local official in connection with a national emergency, or whose operations are significantly affected by such a disaster, receive temporary relief from administrative requirements.

In 20 U.S.C. 1098bb(b)(1), the HEROES Act further provides that section 437 of the General Education Provisions Act (20 U.S.C. 1232) and section 553 of the Administrative Procedure Act (5 U.S.C. 553) do not apply to the contents of this document.

The following terms used in this document are defined in 20 U.S.C. 1098ee: "active duty," "military operation," "national emergency," "qualifying National Guard duty during a war or other military operation or national emergency," and "serving on active duty during a war or other military operation or national emergency."

The Department intends for each of the waivers and modifications described in this document to be severable. If any waiver or modification in this document or its application

to any person, act, or practice is held invalid, the remainder of the waivers and modifications or the application of such waiver or modification to any person, act, or practice will not be affected thereby.

The following waivers and modifications are grouped into three categories, according to the affected individuals to whom they apply.

Category 1: The Secretary is waiving or modifying the following requirements of title IV of the HEA and the Department's regulations for ALL affected individuals.

RETURN OF TITLE IV FUNDS-GRANT OVERPAYMENTS OWED BY THE STUDENT

Section 484B(b) (2) of the HEA and 34 CFR 668.22(h) (3) (ii) require a student to return or repay, as appropriate, unearned grant funds for which the student is responsible under the Return of Title IV Funds calculation. For a student who withdraws from an institution because of the student's status as an affected individual, the Secretary is waiving these statutory and regulatory requirements so that a student is not required to return or repay any overpayment of grant funds based on the Return of Title IV Funds provisions.

For these students, the Secretary also waives 34 CFR 668.22(h) (4), which--

- Requires an institution to notify a student of a grant overpayment and the actions the student must take to resolve the overpayment;

- Denies eligibility to a student who owes a grant overpayment and does not take an action to resolve the overpayment; and

- Requires an institution to refer a grant overpayment to the Secretary under certain conditions.

Therefore, an institution is not required to contact the student, notify the National Student Loan Data System, or refer the overpayment to the Secretary. However, the institution must document in the student's file the amount of any overpayment as part of the documentation of the application of this waiver.

The student is not required to return or repay an overpayment of grant funds based on the Return of Title IV Funds provision. Therefore, an institution must not apply any title IV credit balance to the grant overpayment prior to: using a credit balance to pay authorized charges; paying any amount of the title IV credit balance to the student or parent, in the case of a parent PLUS loan; or using the credit balance to reduce the student's title IV loan debt (with the student's authorization) as provided in Dear Colleague Letter GEN-04-03 (February 2004; revised November 2004).

Category 2: The Secretary is waiving or modifying requirements in the following provisions of title IV of the HEA and the Department's regulations for affected individuals who are serving on active duty or performing qualifying National Guard duty during a war or other military operation or national emergency, or who reside or are employed in a disaster area.

RETURN OF TITLE IV FUNDS-POST-WITHDRAWAL DISBURSEMENTS OF LOAN FUNDS

Under 34 CFR 668.22(a)(6)(iii)(A)(5) and (D), a student (or parent for a parent PLUS loan) must be provided a post-withdrawal disbursement of a title IV loan if the student (or parent) responds to an institution's notification of the post-withdrawal disbursement within 14 days of the date that the institution sent the notice, or a later deadline set by the institution. If a student or parent submits a late response, an institution may, but is not required to, make the post-withdrawal disbursement.

The Secretary is modifying this requirement so that, for a student who withdraws because of their status as an affected individual in this category and who is eligible for a post-withdrawal disbursement, the 14-day time period in which the student (or parent) must normally respond to the offer of the post-withdrawal disbursement is extended to 45 days, or to a later deadline set by the institution. If the student or parent submits a response after the designated period, the institution may, but is not required to, make the post-withdrawal disbursement. As required under the current regulations, if the student or parent submits the timely response instructing the institution to make all or a portion of the post-withdrawal disbursement, or the institution chooses to make a post-withdrawal disbursement based on receipt of a late response, the institution must disburse the funds within 180 days of the date

of the institution's determination that the student withdrew.

LEAVES OF ABSENCE

Under 34 CFR 668.22(d)(3)(iii)(B), a student is required to provide a written, signed, and dated request, which includes the reason for that request, for an approved leave of absence prior to the leave of absence. However, if unforeseen circumstances prevent a student from providing a prior written request, the institution may grant the student's request for a leave of absence if the institution documents its decision and collects the written request at a later date. It may be appropriate in certain limited cases for an institution to provide an approved leave of absence to a student who must interrupt his or her enrollment because he or she is an affected individual in this category. Therefore, the Secretary is waiving the requirement that the student provide a written request for affected individuals who have difficulty providing a written request as a result of being an affected individual in this category. The institution's documentation of its decision to grant the leave of absence must include, in addition to the reason for the leave of absence, the reason for waiving the requirement that the leave of absence be requested in writing.

TREATMENT OF TITLE IV CREDIT BALANCES WHEN A STUDENT WITHDRAWS

Under 34 CFR 668.164(h)(2), an institution must pay any title IV credit balance to the student, or parent in the case of a parent PLUS loan, as soon as possible, but no later than 14 days after the balance occurred if the balance occurred after

the first day of class of a payment period, or 14 days after the first day of class of a payment period if the balance occurred on or before the first day of class of that payment period. If the student (or parent) has provided authorization, an institution may use a title IV credit balance to reduce the borrower's total title IV loan debt, not just the title IV loan debt for the period for which the Return of Title IV Funds calculation is performed.

For students who withdraw because they are affected individuals in this category, the Secretary finds that the institution has met the 14-day requirement under 34 CFR 668.164(h)(2) if, within that time frame, the institution attempts to contact the student (or parent) to suggest that the institution be authorized to return the credit balance to the loan program(s).

Based upon the instructions of the student (or parent), the institution must promptly return the funds to the title IV loan programs or pay the credit balance to the student (or parent).

In addition, if an institution chooses to attempt to contact the student (or parent) for authorization to apply the credit balance to reduce the student's title IV loan debt, it must allow the student (or parent) 45 days to respond. If there is no response within 45 days, the institution must promptly pay the credit balance to the student (or parent) or return the funds to the title IV programs if the student (or parent) cannot be located.

Consistent with the guidance provided in Dear Colleague Letter GEN-04-03 (February 2004; revised November 2004), the institution may also choose to pay the credit balance to the student (or parent) without first requesting permission to apply the credit balance to reduce the student's title IV loan debt.

CASH MANAGEMENT-STUDENT OR PARENT REQUEST FOR LOAN OR TEACH GRANT CANCELLATION

Under 34 CFR 668.165(a)(4)(ii), an institution must return loan or TEACH Grant proceeds, cancel the loan or TEACH Grant, or do both, if the institution receives a loan or TEACH Grant cancellation request from a student or parent--

- By the later of the first day of a payment period or 14 days after the date the institution notifies the student or parent of his or her right to cancel all or a portion of a loan or TEACH Grant if the institution obtains affirmative confirmation from the student under 34 CFR 668.165(a)(6)(i); or

- Within 30 days of the date the institution notifies the student or parent of their right to cancel all or a portion of a loan if the institution does not obtain affirmative confirmation from the student under 34 CFR 668.165(a)(6)(i).

Under 34 CFR 668.165(a)(4)(iii), if an institution receives a loan cancellation request from a borrower after the period specified in 34 CFR 668.165(a)(4)(ii), the institution may, but is not required to, comply with the request. The Secretary is modifying this requirement so that an institution must allow at least 60 days for the student or parent to request the

cancellation of all or a portion of a loan or TEACH Grant for which proceeds have been credited to the account at the institution. If an institution receives a loan or TEACH Grant cancellation request after the 60-day period, the institution may, but is not required to, comply with the request.

CASH MANAGEMENT-STUDENT AND PARENT AUTHORIZATIONS

Under 34 CFR 668.165(b)(1), an institution must obtain a written authorization from a student or parent, as applicable, to--

- Use title IV funds to pay for educationally related charges incurred by the student at the institution other than charges for tuition and fees and, as applicable, room and board; and
- Hold on behalf of the student or parent any title IV funds that would otherwise be paid directly to the student or parent.

The Secretary is modifying these requirements to permit an institution to accept an authorization provided by a student (or parent for a parent PLUS loan) orally, rather than in writing, if the student or parent is prevented from providing a written authorization because of his or her status as an affected individual in this category. The institution must document the oral consent or authorization.

SATISFACTORY ACADEMIC PROGRESS

In cases where a student failed to meet the institution's satisfactory academic progress standards as a direct result of

being an affected individual in this category, institutions may apply the exception provision of "other special circumstances" in 34 CFR 668.34(a)(9)(ii).

BORROWERS IN A GRACE PERIOD

Sections 428(b)(7)(D) of the HEA and 34 CFR 685.207(b)(2)(ii) and (c)(2)(ii) exclude from a Direct Loan borrower's initial grace period any period during which a borrower who is a member of an Armed Forces reserve component is called or ordered to active duty for a period of more than 30 days. The statutory and regulatory provisions further require that any single excluded period may not exceed three years and must include the time necessary for the borrower to resume enrollment at the next available regular enrollment period. Lastly, any borrower who is in a grace period when called or ordered to active duty is entitled to another six or nine-month grace period, as applicable, upon completion of the excluded period of service.

The Secretary is modifying these statutory and regulatory requirements to exclude from a title IV borrower's initial grace period, any period, not to exceed three years, during which a borrower is an affected individual in this category. Any excluded period must include the time necessary for an affected individual in this category to resume enrollment at the next available enrollment period.

BORROWERS IN AN "IN-SCHOOL" PERIOD

A title IV borrower is considered to be in an "in-school" status and is not required to make payments on a title IV loan that has not entered repayment as long as the borrower is enrolled at an eligible institution on at least a half-time basis. Under sections 428(b)(7)(A) and 464(c)(1)(A) of the HEA and 34 CFR 674.31(b)(2), 682.209(a), and 685.207(b), (c), and (e)(2) and (3), when a borrower of a loan under the Federal Family Education Loan (FFEL) Program, the Direct Loan Program, or the Federal Perkins Loan Program ceases to be enrolled at an eligible institution on at least a half-time basis, the borrower is obligated to begin repayment of the loan after a six or nine-month grace period, depending on the title IV loan program under which the loan was made and the terms of the borrower's promissory note. The Secretary is modifying the statutory and regulatory requirements that obligate an "in-school" borrower who has dropped below half-time status to begin repayment if the borrower is an affected individual in this category, by requiring the holder of the loan to maintain the loan in an "in-school" status for a period not to exceed three years, including the time necessary for the borrower to resume enrollment in the next regular enrollment period, if the borrower is planning to go back to school.

BORROWERS IN AN IN-SCHOOL, GRADUATE FELLOWSHIP, OR
REHABILITATION TRAINING PROGRAM DEFERMENT

Under HEA sections 427(a)(2)(C)(i), 428(b)(1)(M)(i), 428B(a)(2) and (d)(1), 428C(b)(4)(C), 455(f)(2)(A), and

464(c) (2) (A) (i) and 34 CFR 674.34(b) (1), 682.210(b) (1) (i), (ii), and (iii), 682.210(s) (2), (3), and (4), 685.204(b), 685.204(c) (1), 685.204(d), and 685.204(e), a title IV borrower is eligible for a deferment on a loan during periods after the commencement or resumption of the repayment period on the loan when the borrower is enrolled and in attendance as a regular student on at least a half-time basis (or full-time, if required by the terms of the borrower's promissory note) at an eligible institution; enrolled and in attendance as a regular student in a course of study that is part of a graduate fellowship program; engaged in an eligible rehabilitation training program; or, for Federal Perkins Loan borrowers, engaged in graduate or post-graduate fellowship-supported study outside the United States. The borrower's deferment period ends when the borrower no longer meets one of the above conditions. Under 34 CFR 685.204(c) (2), a Direct parent PLUS Loan borrower is eligible for a deferment during the time when the student on whose behalf the loan was obtained is enrolled on at least a half-time basis.

The Secretary is waiving the statutory and regulatory eligibility requirements for this deferment for title IV borrowers who were required to interrupt a graduate fellowship or rehabilitation training program deferment, or who were in an in-school deferment but who left school, because of their status as an affected individual in this category. The holder of the loan is required to maintain the loan in the graduate fellowship, rehabilitation training program, or in-school

deferment status for a period not to exceed three years, during which the borrower (or, in the case of an in-school deferment on a parent PLUS loan, the student on whose behalf the loan was obtained) is an affected individual in this category. This period includes the time necessary for the borrower to resume the graduate fellowship program, resume a rehabilitation training program, or resume enrollment in the next regular enrollment period if the borrower (or in the case of a parent PLUS loan, the student) returns to school.

FORBEARANCE

Under section 464(e) of the HEA and 34 CFR 674.33(d)(2), there is a three-year cumulative limit on the length of forbearances that a Federal Perkins Loan borrower can receive. To assist Federal Perkins Loan borrowers who are affected individuals in this category, the Secretary is waiving these statutory and regulatory requirements so that any forbearance based on a borrower's status as an affected individual in this category is excluded from the three-year cumulative limit.

Under section 464(e) of the HEA and 34 CFR 674.33(d)(2) and (3), a school must receive a request and supporting documentation from a Federal Perkins Loan borrower before granting the borrower a forbearance, the terms of which must be in the form of a written agreement. The Secretary is waiving these statutory and regulatory requirements to require an institution to grant forbearance based on the borrower's status as an affected individual in this category for a one-year

period, including a three-month "transition period" immediately following, without supporting documentation or a written agreement, based on the written or oral request of the borrower, a member of the borrower's family, or another reliable source. The purpose of the three-month transition period is to assist borrowers so that they will not be required to reenter repayment immediately after they are no longer affected individuals in this category. To grant the borrower forbearance beyond the initial 12- to 15-month period, supporting documentation from the borrower, a member of the borrower's family, or another reliable source is required.

Under 34 CFR 674.33(d)(2) and 682.211(i)(1), a Perkins or FFEL borrower who requests forbearance because of a military mobilization must provide the loan holder with documentation showing that he or she is subject to a military mobilization. The Secretary is waiving this requirement to allow a borrower who is not otherwise eligible for the military service deferment under 34 CFR 682.210(t), and 674.34(h) to receive forbearance at the request of the borrower, a member of the borrower's family, or another reliable source for a one-year period, including a three-month transition period that immediately follows, without providing the loan holder with documentation. To grant the borrower forbearance beyond this period, documentation supporting the borrower's military mobilization must be submitted to the loan holder.

The Secretary will apply the forbearance waivers and modifications in this section to loans held by the Department.

COLLECTION OF DEFAULTED LOANS

In accordance with 34 CFR part 674, subpart C—Due Diligence, and 682.410(b)(6), schools and guaranty agencies must attempt to recover amounts owed from defaulted Federal Perkins Loan and FFEL borrowers, respectively. The Secretary is waiving the regulatory provisions that require schools and guaranty agencies to attempt collection on defaulted loans for the time period during which the borrower is an affected individual in this category and for a three-month transition period. The school or guaranty agency may stop collection activities upon notification by the borrower, a member of the borrower's family, or another reliable source that the borrower is an affected individual in this category. The school or guaranty agency must resume collection activities after the borrower has notified the school or guaranty agency that the affected individual status no longer applies and that the three-month transition period has expired. Alternatively, the school or guaranty agency may rely upon evidence that the borrower is receiving Imminent Danger Pay or Hostile Fire Pay (IDP/HFP) to determine the time frame during which collection should be suspended; collection may be suspended while the borrower is receiving IDP/HFP and for three months after that special pay ends. The loan holder must document in the loan file why it has suspended collection activities on the loan, and the loan holder is not required to

obtain evidence of the borrower's status while collection activities have been suspended. The Secretary will apply the waivers described in this paragraph to loans held by the Department.

FRESH START INITIATIVE

In March 2021, the Department directed guaranty agencies to halt collection efforts on defaulted loans to be consistent with the treatment of Direct Loans. On April 6, 2022, the Department announced that it would provide borrowers who defaulted on their Federal student loans prior to the COVID-19 pandemic with additional opportunities to get their loans out of default. This initiative, called "Fresh Start" is described in the Department's Notice of updated waivers and modifications of statutory and regulatory provisions published on June 16, 2023 (88 FR 39360). Borrowers who take advantage of this opportunity to get their loans out of default will, as a result, regain eligibility for title IV, HEA Federal student aid, including Federal Pell Grants and campus-based aid like Federal Work-Study. The Fresh Start opportunity will remain available to previously defaulted borrowers for one year after the end of the COVID-19 pandemic student loan payment pause. Borrowers eligible for Fresh Start will have one year to make payment arrangements before being treated as defaulting on their debt and before their loans will be subject to further collection efforts. Fresh Start applies to a broader group of individuals than outlined in this Federal Register notice so for additional

information regarding implementation of the Fresh Start Initiative, refer to Electronic Announcement (General 22-58) Information About Restored Aid Eligibility Under Fresh Start Initiative and Dear Colleague Letter GEN-22-13 Federal Student Aid Eligibility for Borrowers with Defaulted Loans.

SERVICE-BASED LOAN CANCELLATION

Depending on the loan program, borrowers may qualify for loan cancellation if they are employed full-time in specified occupations, such as teaching or in law enforcement, or providing eligible volunteer service pursuant to sections 428J, 460(b)(1), and 465(a)(2)(A)-(M) and (3) of the HEA, and 34 CFR 674.53, 674.55, 674.56, 674.57, 674.58, 674.60, 682.216, and 685.217. Generally, to qualify for loan cancellation, borrowers must perform uninterrupted, otherwise qualifying service for a specified length of time (for example, one year) or for consecutive periods of time, such as five consecutive years.

For borrowers who are affected individuals in this category, the Secretary is waiving the requirements that apply to the various loan cancellations that such periods of service be uninterrupted or consecutive, if the reason for the interruption is related to the borrower's status as an affected individual in this category. Therefore, the service period required for the borrower to receive or retain a loan cancellation for which he or she is otherwise eligible will not be considered interrupted by any period during which the borrower is an affected individual in this category, including

the three-month transition period. The Secretary will apply the waivers described in this paragraph to loans held by the Department.

REHABILITATION OF DEFAULTED LOANS

A borrower of a Direct Loan or a FFEL Loan must make nine voluntary on-time, monthly payments over 10 consecutive months to rehabilitate a defaulted loan in accordance with section 428F(a) of the HEA and 34 CFR 682.405(a)(2)(i) and 685.211(f)(1). Federal Perkins Loan borrowers must make nine consecutive, on-time monthly payments to rehabilitate a defaulted Federal Perkins Loan in accordance with section 464(h)(1)(A) of the HEA and 34 CFR 674.39(a)(2). To assist title IV borrowers who are affected individuals in this category, the Secretary is waiving the statutory and regulatory requirements that payments made to rehabilitate a loan must be consecutive or made over no more than 10 consecutive months. Loan holders should not treat any payment missed during the time that a borrower is an affected individual in this category, or during the three-month transition period, as an interruption in the number of monthly, on-time payments required to be made consecutively, or the number of consecutive months in which payment is required to be made, for loan rehabilitation. If there is an arrangement or agreement in place between the borrower and loan holder and the borrower makes a payment during this period, the loan holder must treat the payment as an eligible payment in the required series of payments. When the

borrower is no longer an affected individual in this category, and the three-month transition period has expired, the required sequence of qualifying payments may resume at the point they were discontinued as a result of the borrower's status. The Secretary will apply the waivers described in this paragraph to loans held by the Department.

REINSTATEMENT OF TITLE IV ELIGIBILITY

Under sections 428F(b) and 464(h)(2) of the HEA and under the definition of "satisfactory repayment arrangement" in 34 CFR 668.35(a)(2), 674.2(b), 682.200(b), and 685.102(b), a defaulted title IV borrower may make six consecutive, on-time, voluntary, full, monthly payments to reestablish eligibility for title IV Federal student financial assistance. To assist title IV borrowers who are affected individuals in this category, the Secretary is waiving statutory and regulatory provisions that require the borrower to make consecutive payments to reestablish eligibility for title IV Federal student financial assistance. Loan holders should not treat any payment missed during the time that a borrower is an affected individual in this category as an interruption in the six consecutive, on-time, voluntary, full, monthly payments required for reestablishing title IV eligibility. If there is an arrangement or agreement in place between the borrower and loan holder and the borrower makes a payment during this period, the loan holder must treat the payment as an eligible payment in the required series of payments. When the borrower is no longer an affected individual

or in the three-month transition period for purposes of this document, the required sequence of qualifying payments may resume at the point they were discontinued as a result of the borrower's status. The Secretary will apply the waivers described in this paragraph to loans held by the Department.

CONSOLIDATION OF DEFAULTED LOANS

Under the definition of "satisfactory repayment arrangement" in 34 CFR 685.102(b), a borrower with a defaulted FFEL or Direct Loan may consolidate the defaulted loan into a Direct Consolidation Loan by making three consecutive, voluntary, on-time, monthly, full payments on the loan. The Secretary is waiving the regulatory requirement that such payments be consecutive. FFEL loan holders should not treat any payment missed during the time that a borrower is an affected individual in this category as an interruption in the three consecutive, voluntary, monthly, full, on-time payments required for establishing eligibility to consolidate a defaulted loan in the Direct Consolidation Loan Program. If there is an arrangement or agreement in place between the borrower and loan holder and the borrower makes a payment during this period, the loan holder must treat the payment as an eligible payment in the required series of payments. When the borrower is no longer an affected individual in this category or in the three-month transition period, the required sequence of qualifying payments may resume at the point they were discontinued as a result of the borrower's status as an affected individual. The Secretary will

apply the waivers described in this paragraph to loans held by the Department.

ANNUAL INCOME DOCUMENTATION REQUIREMENTS FOR DIRECT LOAN AND FFEL BORROWERS UNDER THE INCOME-BASED REPAYMENT (IBR), PAY AS YOU EARN (PAYE), SAVING ON A VALUABLE EDUCATION (SAVE), formerly known as REVISED PAY AS YOU EARN (REPAYE), AND INCOME-CONTINGENT REPAYMENT (ICR) PLANS

Section 493C(c) of the HEA requires the Secretary to establish procedures for annually determining a borrower's eligibility for the IBR plan, including verification of a borrower's annual income and the annual amount due on the total amount of the borrower's loans. Section 455(e)(1) of the HEA provides that the Secretary may obtain such information as is reasonably necessary regarding the income of a borrower for the purpose of determining the annual repayment obligation of the borrower under an ICR plan. Under current 34 CFR 682.215(e); 685.209(a)(5), (b)(3)(vi), and (c)(4); and 685.221(e), borrowers repaying under the IBR, PAYE, SAVE, formerly known as REPAYE, or ICR plans must annually provide their loan holder with documentation of their income and family size so that the loan holder may, if necessary, adjust the borrower's monthly payment amount based on changes in the borrower's income or family size. Please note that, as of July 1, 2024, the application and annual recertification procedures for the IBR, PAYE, and SAVE plans will be located in §§ 685.209(1) and 682.215(e). Borrowers are required to provide information about their annual income and

family size to the loan holder each year by a deadline specified by the holder. If a borrower who is repaying his or her loans under the IBR, PAYE, SAVE (formerly known as REPAYE), or ICR plans fails to provide the required information by the specified deadline, the borrower's monthly payment amount is adjusted and is no longer based on the borrower's income. This adjusted monthly payment amount is generally higher than the payment amount that was based on the borrower's income.

The Secretary is waiving these statutory and regulatory provisions to require loan holders to maintain an affected borrower's payment at the most recently calculated IBR, PAYE, SAVE (formerly known as REPAYE), or ICR monthly payment amount for up to a three-year period, including a three-month transition period immediately following the three-year period, if the borrower's status as an affected individual in this category has prevented the borrower from providing documentation of updated income and family size by the specified deadline.

Category 3: The Secretary is waiving or modifying the following provisions of title IV of the HEA and the Department's regulations for affected individuals who are serving on active duty or performing qualifying National Guard duty during a war or other military operation or national emergency.

INSTITUTIONAL CHARGES AND REFUNDS

The HEROES Act encourages institutions to provide a full refund of tuition, fees, and other institutional charges for the portion of a period of instruction that a student was unable to

complete, or for which the student did not receive academic credit, because he or she was called up for active duty or for qualifying National Guard duty during a war or other military operation or national emergency. Alternatively, the Secretary encourages institutions to provide a credit in a comparable amount against future charges.

The HEROES Act also recommends that institutions consider providing easy and flexible reenrollment options to students who are affected individuals in this category. At a minimum, an institution must comply with the requirements of 34 CFR 668.18, which addresses the readmission requirements for service members serving for a period of more than 30 consecutive days under certain conditions. Some institutions must also provide protections to service members who are absent for shorter periods of service, under the Principles of Excellence (Executive Order 13607, issued April 27, 2012). More information is available at:
<https://www.va.gov/education/choosing-a-school/principles-of-excellence/>.

Of course, an institution may provide such treatment to affected individuals other than those who are called up to active duty or for qualifying National Guard duty during a war or other military operation or national emergency. Before an institution makes a refund of institutional charges, it must perform the required Return of Title IV Funds calculations based upon the originally assessed institutional charges. After

determining the amount that the institution must return to the title IV Federal student aid programs, any reduction of institutional charges may consider the funds that the institution is required to return. In other words, we do not expect that an institution would both return funds to the Federal programs and also provide a refund of those same funds to the student.

Accessible Format: On request to one of the program contact persons listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (TXT), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc or other accessible format.

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(Catalog of Federal Domestic Assistance Numbers: 84.007 Federal Supplemental Educational Opportunity Grant Program; 84.032 Federal Family Education Loan Program; 84.032 Federal PLUS Program; 84.033 Federal Work Study Program; 84.038 Federal Perkins Loan Program; 84.063 Federal Pell Grant Program; and 84.268 William D. Ford Federal Direct Loan Program.)

Program Authority: 20 U.S.C. 1071, 1082, 1087a, 1087aa, Part F-1, 1098aa.

Miguel A. Cardona,
Secretary of Education.

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